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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

RIN 0648-BJ74

**Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast
Groundfish Fishery Management Plan; Amendment 29; 2021-2022 Biennial
Specifications and Management Measures**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Availability of a proposed fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council has submitted Amendment 29 to the Pacific Coast Groundfish Fishery Management Plan to the Secretary of Commerce for review. If approved, Amendment 29 would reclassify shortbelly rockfish as an ecosystem component species and would make changes to the trawl/non-trawl allocations for blackgill rockfish within the southern slope complex south of 40°10' North latitude (N. lat.), petrale sole, lingcod south of 40°10'N. lat., and widow rockfish.

DATES: Comments on Amendment 29 must be received no later than *[insert date 60 calendar days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2020-0098, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!/docketDetail;D=NOAA-NMFS-2020-0098, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Barry A. Thom., Regional Administrator, 7600 Sand Point Way, NE, Seattle, WA, 98115.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web site at <https://www.federalregister.gov/>. Background information and documents including an integrated analysis for this action (Analysis), which addresses the statutory requirements of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the National Environmental Policy Act, Executive Order 12866, and the Regulatory Flexibility Act are available at the NMFS West Coast Region Web site at <https://www.fisheries.noaa.gov/region/west-coast> and at the Pacific Fishery Management Council’s Web site at <http://www.pcouncil.org>. The final 2020 Stock

Assessment and Fishery Evaluation (SAFE) report for Pacific Coast groundfish, as well as the SAFE reports for previous years, are available from the Pacific Fishery Management Council's website at <http://www.pcouncil.org>.

FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, telephone: (206) 526-4491 and e-mail: karen.palmigiano@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) off Washington, Oregon, and California under the Pacific Coast Groundfish Fishery Management Plan (PCGFMP). The Pacific Fishery Management Council (Council) prepared and NMFS implemented the PCGFMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* and by regulations at 50 CFR parts 600 and 660. The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan (FMP) or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a notice that the FMP or amendment is available for public review and comment. This notice announces that proposed Amendment 29 to the FMP is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve, partially approve, or disapprove Amendment 29 to the FMP.

Amendment 29 would make two changes to the PCGFMP. Amendment 29 would (1) reclassify shortbelly rockfish from a stock that requires conservation and management (previously known as “in the fishery”) to an ecosystem component (EC) species; and (2)

change the trawl/non-trawl allocations for blackgill rockfish within the southern slope complex south of 40°10' N. lat., petrale sole, lingcod south of 40°10' N. lat., and widow rockfish.

Shortbelly Rockfish as an EC Species

Shortbelly rockfish (*Sebastes jordani*) is one of the most abundant rockfish species and an important forage species in the California Current Ecosystem. Shortbelly rockfish is not the target of any fisheries and is mostly taken as bycatch in midwater trawl fisheries. Unlike most harvested Pacific coast rockfishes (e.g., bocaccio and cowcod), shortbelly rockfish are small-bodied, relatively short-lived and semi-pelagic rockfish that school as adults. Shortbelly rockfish recruitment is highly variable among years, causing populations to undergo large “booms and busts”. Historically, shortbelly rockfish were most abundant off central California from Monterey Bay to Point Reyes, common in southern California, and only rarely encountered north of Cape Mendocino, California. In recent years, shortbelly rockfish distribution has extended north of Cape Mendocino, California and into Oregon and Washington waters, the principal fishing areas the midwater trawl fishery operates in to harvest Pacific whiting. While shortbelly rockfish bycatch was historically low in the Pacific whiting fishery, the recent shift in distribution and a likely increase in abundance, has resulted in increased bycatch of shortbelly rockfish in the Pacific whiting midwater trawl fishery. See Chapter 4 of the Analysis for more information on high bycatch of shortbelly rockfish in the Pacific whiting fishery.

Shortbelly rockfish was last assessed in 2007. The assessment, available on the Council’s website at <https://www.pcouncil.org/documents/2007/04/stock-assessment-model-for-the-shortbelly-rockfish-sebastes-jordani-in-the-california-current.pdf/>,

estimated the shortbelly rockfish stock to be 67 percent of unfished levels at the start of 2005. The Analysis (Chapter 3) describes NMFS survey data since the last assessment, including the Southwest Fisheries Science Center's Rockfish Recruitment and Ecosystem Analysis Survey (RREAS) and California Cooperative Oceanic Fisheries Investigations (CalCOFI) and the Northwest Fisheries Science Center's West Coast Groundfish Bottom Trawl Survey, which provide more recent insight into the population trends of shortbelly rockfish. These survey data show extraordinarily high recruitment events occurred between 2013 and 2017, and provide evidence that the overall shortbelly rockfish population was very high in 2018–2019. The population size in southern California remains close to average levels and suggests the shortbelly rockfish population did not simply shift to northern waters. Increased encounters of shortbelly rockfish in northern midwater trawl fisheries is likely the result of increased recruitment and coastwide biomass coupled with an expansion of its geographic range on the West Coast. In addition to examining NMFS survey data for trends in shortbelly rockfish biomass and distribution, the Analysis (Chapter 3) describes recent research by Schroeder *et al.* 2018, which suggests that the shortbelly rockfish stock is expected to thrive for at least the next decade or so based on multiple strong incoming year-classes.

Shortbelly rockfish were initially considered for an EC species categorization under Amendment 23 to the PCGFMP. Rather than classifying shortbelly rockfish as an EC species, the Council chose to recommend a very restrictive annual catch limit (ACL) of 50 mt, or less than 1 percent of the acceptable biological catch (ABC), for the 2011-2012 (76 FR 27508, May 11, 2011) and the 2013-2014 (78 FR 580, January 3, 2013) management cycles. The ACL was increased to 500 mt beginning in 2015 to prevent

unavoidable bycatch from prematurely shutting down emerging mid-water trawl fisheries targeting yellowtail and widow rockfish (80 FR 12567, March 10, 2015). At the time, the 500 mt ACL was still less than 10 percent of the ABC and was a level of harvest meant to accommodate unavoidable incidental bycatch of shortbelly rockfish while allowing most of the harvestable surplus of the stock to be available as forage for species in the California Current ecosystem. The shortbelly rockfish ACL was exceeded in 2018 and 2019. Bycatch of this stock was highly variable and unpredictable in the fishery. After review of the best available scientific information, the ACL was increased again to 3,000 mt in 2020 for the same reasons it was increased in 2015 (85 FR 36803, June 18, 2020).

Section 4.2 of the PCGFMP defines species categories for stocks and stocks complexes. The first three categories are identified for those stocks that need conservation or management and for which the Council sets biennial harvest specifications. The fourth category of species is identified as EC species. These species are not determined to be in need of conservation and management and therefore the Council and NMFS do not actively manage them. EC species are not targeted in any fishery and are not generally retained for sale or personal use.

Section 302(h)(1) of the Magnuson-Stevens Act requires a Council to prepare an FMP for each fishery under its authority that is in need of conservation and management. “Conservation and management” is defined in section 3(5) of the Magnuson-Stevens Act. The National Standard guidelines at § 600.305(c) (revised on October 18, 2016; 81 FR 71858) provide direction for determining which stocks will require conservation and management and provide direction to regional councils and NMFS for how to consider these factors in making this determination. Specifically, the guidelines direct regional

fishery management councils and NMFS to consider a non-exhaustive list of 10 factors when deciding whether stocks require conservation and management. Below is a summary of information on shortbelly rockfish related to those 10 factors. Section 4.2.3.2 in the Analysis provides additional details on each of the 10 factors' relevance to shortbelly rockfish.

One of the factors a Council must consider when determining whether a stock requires conservation and management is whether maintaining it as a target species will improve or maintain the condition of the stock. The analysis shows that while shortbelly are currently classified as “in the fishery” in the PCGFMP, there has been no directed fishing for shortbelly rockfish and disincentives still exist to prevent a directed fishery from developing, such as a lack of market, the cost of having to land shortbelly versus the profits (~\$0.02 per pound), and the possibility of fouling the mesh (See Section 4.1.1.5 of the Analysis for more information disincentives for targeting shortbelly rockfish). Shortbelly rockfish is not considered an important stock to commercial, recreational, or subsistence users, as very little is ever caught. Shortbelly rockfish is also not an important component of the regional or National economy and has limited economic value with ex-vessel landings totaling about \$11,000 in 2019. There is no developing fishery for shortbelly rockfish in the EEZ off of the West Coast. Because there is no directed fishing and incidental fishing-related mortality has been low in comparison to the ABC, it is very unlikely that catch would exceed the overfishing limit for shortbelly rockfish, resulting in shortbelly rockfish becoming overfished and in need of rebuilding. There are no known conservation concerns for shortbelly rockfish since they are not targeted, are not profitable, and future uses of shortbelly rockfish remain unavailable.

Therefore, maintaining shortbelly rockfish as a target species in the PCGFMP is not likely to change stock condition.

Based on a review of the best scientific information available, and after considering the National Standard guidelines, the Council recommended and NMFS is proposing to reclassify shortbelly rockfish as an EC species through Amendment 29 to the PCGFMP. While the Council determined that shortbelly rockfish are not in need of conservation and management as defined by the Magnuson-Stevens Act and the National Standard guidelines, the Council and NMFS determined that there are benefits to retaining shortbelly rockfish as an EC species complex in the PCGFMP because they are a component of the ecosystem as prey (forage fish). Additionally, the Council has adopted a list of candidate stocks for assessment in 2023 for which shortbelly rockfish is included. The Council will make a final decision on this candidate list in June 2022. Amendment 29 would reclassify shortbelly rockfish as an EC species in the PCGFMP to clarify that they are a non-target species and not in need of conservation and management. Recordkeeping and reporting requirements will be maintained to monitor the effects of incidental catch of shortbelly in the groundfish fisheries.

Changes to Trawl and Non-Trawl Allocations

The Council also recommended changing some fixed allocations that were originally established through Amendment 21 to the PCGFMP to 2-year allocations, and revising the trawl/non-trawl percentages for those allocations for blackgill rockfish within the southern slope complex south of 40°10' N. lat., petrale sole, lingcod south of 40°10' N. lat., and widow rockfish. Table 1 provides the current trawl/non-trawl

allocation for these stocks as was implemented through the 2019-20 biennium and the Council's recommended trawl/non-trawl allocations for the 2021-22 biennium.

Table 1 -- Current and Proposed Trawl and Non-trawl Allocations for Changes to the Trawl/Non-trawl Allocations for Blackgill Rockfish within the Southern Slope Complex South of 40°10' N. lat., Petrale Sole, Lingcod South of 40°10'N. lat., and Widow Rockfish

Stock	2020				2021-22 Biennium			
	Trawl Allocation		Non-Trawl Allocation		Trawl Allocation		Non-Trawl Allocation	
	MT	Percent	MT	Percent	MT	Percent	MT	Percent
Southern slope complex south of 40°10' N. lat., includes blackgill rockfish	723.8	63	456	37	2021-Slope (484.5), blackgill (72.4) 2022-Slope (483.2), blackgill (71.4)	Blackgill (41 %), Other slope rockfish (91 %)	2021-Slope (47.9), blackgill (104.2) 2022-Slope (47.8), blackgill (102.7)	Blackgill (59 %), Other slope rockfish (9 %)
Petrable sole	2,458	95	129.4	5	Remaining Amount	-	30 MT	-
Lingcod south of 40°10'N. lat.	462.5	45	565.2	55	435.6	40	653.4	60
Widow Rockfish	10,540.2	91	1,042.4	9	Remaining Amount	-	400	-

Converting these allocations from fixed allocations to 2-year allocations would allow the Council to review and potentially revise them during each biennium. The changes to trawl and non-trawl allocations are expected to better align current catch with annual limits that maximize benefits to sectors while also under attainment of stocks that can occur when a sector is allocated more than they can harvest. The effects of each of these changes is discussed in Chapter 4 of the Analysis under the specific stock or stock complex.

NMFS welcomes comments on the proposed FMP amendment through the end of the comment period. A proposed rule to implement Amendment 29 has been submitted

for Secretarial review and approval. NMFS expects to publish and request public review and comment on proposed regulations to implement Amendment 29 in the near future.

For public comments on the proposed rule to be considered in the approval or disapproval decision on Amendment 29, those comments must be received by the end of the comment period on the amendment. All comments received by the end of the comment period for the amendment, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 28, 2020.

Kelly Denit,

Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.